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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/884,638 | 06/19/2001 | Thomas E. Ricciardelli | 2601.102 | 4310 |

7590

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EXAMINER

TRAN A, PHI DIEU N

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3637 | |

DATE MAILED: 04/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,638

Applicant(s)

RICCIARDELLI, THOMAS E.

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/25/03 has been entered.

Claims 28-29 have been canceled. Claims 1-27 are pending.

“ The subject matter present is regarded as a product by process claim in which a product is introduced by the method in which it is made. The presence of process limitations on product claims, which product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. In re Stephen 145 USPQ 656 (CCPA 1965). It is the general practice of this office to examine the final product described regardless of the method provided by the applicant.” The above policy applies to claims 14, 18, 21, and 26.

Claim Objections

1. Claims 6, 8, 23 are objected to because of the following informalities:

Per claim 6 “ the first interlock sidewall” is lacking antecedent basis. Should it be “ the first sidewall”?

Per claim 8, “said end” is unclear. Is it the distal end or the proximal end?

Per claim 23, “ boards a wood floor” is unclear. Should it be “boards of a wood floor”?

Appropriate correction is required.

Claim Rejections - 35 USC § 102

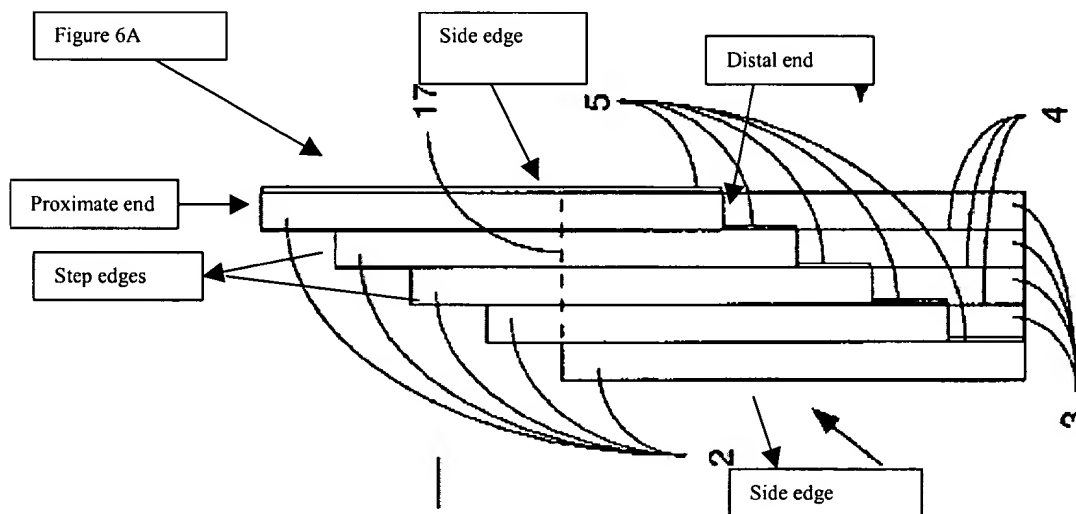
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-3, 9-13, 18-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Costantino (6119423).

Costantino (figure 6A) shows a floor tile (2) having a flat elongated base having a top surface, a bottom surface, a distal end and a proximal end, the base composed of a polymeric material (col 3 lines 54-56) and having a solid cross section, first and second opposite sides lying



in respective first and second substantially parallel side planes, a longitudinal axis disposed between and substantially parallel to the side planes, a plurality of longitudinally spaced, stepped

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edges formed on each of the distal and proximate ends of the base, each of the plurality of stepped edges formed by adjoining longitudinal and transverse edge portions, the longitudinal edge portion of one said edge lying in a longitudinal plane inward of one of the side planes and extending substantially parallel thereto and the transverse edge portion of the one said edge extending toward a base side to join a longitudinal edge portion of another one of the stepped edges, the longitudinal edge portions of the opposite ones of the stepped edges lie in the same longitudinal plane whereby opposite stepped edges are in the same longitudinal plane, whereby opposite stepped edges are in longitudinal alignment (figure 6B), first and second interlock surfaces on the base (figure 2) extending substantially parallel to each of the first and second sides respectively for locking the tile to one or more similar adjacent tiles, the distal end of the base being formed by a first, second and third step, each step on the distal end of the base having a longitudinally aligned step on the proximal end of the base (figure 6B), a plurality of said stepped edges on each of the distal and proximal ends of the base, thereby forming a stepped staircase arrangement, the staircase arrangement at one of the base ends being inverted with respect to the staircase arrangement at the opposite base end (figure 6A), the steps of one of the staircase arrangement being longitudinally aligned with corresponding steps of an opposite staircase arrangement, a decorative layer adhered to the top surface of the base (cols 3-4, lines 66-67, 1-3), the step edges have longitudinal and transverse intersection portions (the portions at the corner between the longitudinal and transverse) to simulate transverse staggering between individual boards of a wood floor, the decorative layer simulates the surface of a wooden floor and additionally a plurality of longitudinally extending parallel grooves being molded in the top surface to simulate a plurality of boards (figure 6A shows the sections prior to joining having

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grooves between each base 2), each of the grooves being aligned with the longitudinal edge portions of oppositely aligned step edges.

3. Claims 26-27 are rejected under 35 U.S.C. 102(a) as being anticipated by Costantino (6119423).

Costantino (figure 6A) shows a floor tile of polymeric material (col 3 lines 57-59) having a plurality of flat elongated tile sections of substantially equal length (figure 6A) and each of the plurality of tile sections having adjoining top surfaces of generally rectangular shape, the plurality of sections being joined in parallel longitudinally staggered relationship to simulate the staggering of abutting elongated boards in a wooden floor installation, a decorative layer (cols 3-4, lines 66-67, 1-3) on the top surface simulating a wood grain in each tile section, matable interlock portion (5, 16, figure 2) formed on the edges of the section for mechanically interlocking the tile to the similarly staggered tiles having matable interlock portions thereon, each tile section being longitudinally spaced from its adjoining section of tile by substantially the same amount (figure 6A).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-8, 14-17, 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Costantino (6119423) in view of Wienand et al (3679531).

Per claim 4, Costantino shows all the claimed limitations except for the first and second interlock surfaces on the base face inward.

Wienand et al (figure 6) shows interlocking structures (4, 5) interlocking panels together, the interlocking panels having first and second interlock surfaces (4, 5, figure 6) on the base face inward.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Costantino to show the first and second interlock surfaces on the base face inward as taught by Wienand et al because it would provide for a strong interconnection between the panels as taught by Wienand et al.

Per claims 5-7, Costantino shows all the claimed limitations except for each of the interlock surfaces comprising an hermaphroditic interlock structure having first and second sidewalls spaced apart to form a partially enclosed open sided cavity facing outwardly from the base, the first interlock side wall being the outermost sidewall, the sides of the base and the first sidewall form there between the male part of the interlock structure, the first sidewall being inclined toward the first side with a slope of opposite polarity to that of the first sidewall adjacent the second side of the base.

Wienand et al (figure 6) shows each of the interlock surfaces comprising an hermaphroditic interlock structure (4, 5) having first and second sidewalls spaced apart to form a partially enclosed open sided cavity (figure 5) facing outwardly from the base, the first interlock side wall being the outermost sidewall, the sides of the base and the first sidewall form there between the male part of the interlock structure (3, figure 5), the first sidewall being inclined

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toward the first side with a slope of opposite polarity to that of the first sidewall adjacent the second side of the base to allow strong interlocking of the panels together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Costantino to show each of the interlock surfaces comprising an hermaphroditic interlock structure having first and second sidewalls spaced apart to form a partially enclosed open sided cavity facing outwardly from the base, the first interlock side wall being the outermost sidewall, the sides of the base and the first sidewall form there between the male part of the interlock structure, the first sidewall being inclined toward the first side with a slope of opposite polarity to that of the first sidewall adjacent the second side of the base because it would allow for strong interlocking of the panels together as taught by Wienand et al.

Per claim 8, Costantino shows all the claimed limitations except for an interlock surface formed in the base of the end inwardly of the edges of the step edges.

Wienand et al shows interlocking structures firmly connecting panels together having an interlock surface (4) formed in the base of the end inwardly of the edges.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Costantino to show an interlock surface formed in the base of the end inwardly of the edges of the step edges because it would allow for strong interlocking of the panels together as taught by Wienand et al.

Per claim 14, Costantino shows all the claimed limitations except for the decorative layer being a laminate molded to the base.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Costantino to show the decorative layer being a laminate molded to the base because it would allow for the easy attachment of the decorative layer to the base.

Per claim 15, Costantino shows all the claimed limitations except for a wear resistant layer adhered to the top surface of the base.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Costantino to show a wear resistant layer adhered to the top surface of the base because it would allow the floor to be wear resistant which is much needed as it is subjected to traffic.

Per claim 16, Costantino as modified shows all the claimed limitations except for a wear resistant layer adhered to the top surface of the base.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Costantino's modified structure to show a wear resistant layer adhered to the top surface of the base because it would allow the floor to be wear resistant which is much needed as it is subjected to traffic.

Per claim 17, Costantino shows all the claimed limitations except for the base being at least partially composed of recycled plastic material.

It would have been obvious to one having ordinary skill in the art to at the time of the invention to modify Costantino to show the base being at least partially composed of recycled plastic because using recycled plastic would ensure cheap and available material for the tile.

Per claims 21-25, Costantino (figure 6A) shows a floor tile assembly having a plurality of mutually adjacent tiles mechanically interlocked along the sides thereof (at 5,6, figure 2), each of

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the tiles having an elongated base of substantially solid rectangular cross-section of substantially equal width and having a longitudinal axis, a top and bottom surface and first and second substantially linear peripheral edges forming substantially straight borders, a pair of open sided interlock structure molded in the base extending parallel to and adjacent to different ones of the first and second edges, a plurality of transverse stepped end surfaces (2) longitudinally spaced from one-another formed on opposite ends of the base whereby the base edges being staggered in the longitudinal direction, a decorative layer adhering to the top surface of each tile simulating a section of a wood floor (cols 3-4, lines 66-67, 1-3), the transversely stepped end surface on each tile being formed by a staircase of individual steps, each step having longitudinal and transverse intersecting portions to simulate transverse staggering between individual boards of a wood floor, the step staircases being positionally inverted relative to a central plane through a said base and perpendicular to the longitudinal axis, each step having a longitudinally disposed diagonal counterpart step on an opposite base end (figure 6A, middle), a plurality of top longitudinal grooves each aligned with a longitudinal portion of a step (the groove between bases 2) and its opposite counterpart to simulate the longitudinally abutting edges of boards of a wood floor.

Costantino does not show the open side of the interlock structure adjacent the first side edge facing the bottom surface being disposed to engage a mating interlocking structure of another adjacent tile from the top of the base.

Wienand et al shows the open side of the interlock structure adjacent the first side edge facing the bottom surface being disposed to engage a mating interlocking structure of another adjacent tile from the top of the base to provide for strong interlocking of the panels together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Costantino to show the open side of the interlock structure adjacent the first side edge facing the bottom surface being disposed to engage a mating interlocking structure of another adjacent tile from the top of the base because it would provide for strong interlocking of the panels together as taught by Wienand et al.

Response to Arguments

3. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different floor tile designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large circular flourish at the end.

Phi Dieu Tran A
April 25, 2003.